

### Remarks

The first Office Action mailed July 26, 2005 objected to the abstract, objected to claims 1-18, rejected claims 1, 2, 14 and 17-20, and indicated that claims 3-13, 15 and 16 would be allowable if rewritten into independent form.

The Applicant has hereinabove presented amendments to the specification and claims. The title of the application has generally been amended to better conform to the claimed subject matter. The abstract has been amended to correct a matter of form.

The amendments to the claims include amendments to the language of claims 1-13, the cancellation of claims 14-20 without prejudice, and the addition of new claims 21-28.

Independent claim 1 has been broadened to remove limitations deemed unnecessary for patentability and to better set forth the subject matter regarded as the invention pursuant to 35 U.S.C. §1.2, second paragraph. Claim 1 now generally features a method comprising "executing a first data transfer command, and delaying execution of a second data transfer command to transfer speculative data in lieu thereof." Support is found including in the language of original claim 1, as well as in the specification at page 8, lines 18-22, page 9, lines 9-11 and page 17, lines 5-7. Dependent claims 2-13 have been amended to better conform to the language of independent claim 1.

The Applicant respectfully submits that the above amendments are proper, do not introduce new matter or narrow the scope of the claimed subject matter, are not provided for purposes of patentability, and serve to place the application in proper condition for reconsideration and allowance.

**Objection to Specification**

The Office Action objected to the abstract. An amended abstract has been provided above, and reconsideration and withdrawal of the objection are requested in view thereof.

**Objection to Claims**

Claims 1-18 were objected to based a lack of antecedent basis for the phrase "the utility" in the language of original claim 1. This has been corrected via amendment as set forth above. The Applicant's Attorney apologizes for the inconvenience to the Examiner as a result of this error.

**Rejection of Claims Under 35 U.S.C. §102**

Claims 1, 2, 14 and 17-20 were rejected under §102(e) as being anticipated by U.S. Published Patent Application No. 2003/0105919 to Olds et al. ("Olds '919"). This rejection is respectfully traversed. The Applicant notes that this published application is co-owned by the present assignee and the reference is not available as prior art under 35 U.S.C. §103(a) pursuant to §103(c).

With regard to the rejection of original claim 1, the Examiner cited to block (paragraph) 6, lines 1-5 of Olds '919 to satisfy the identifying step, and cited to paragraph 9, lines 5-12 of Olds '919 to satisfy the acquiring step. This is respectfully traversed.

Claim 1 as originally filed recited the speculative data being acquired "in lieu of" execution of the second access command. The term "in lieu" of would be readily construed by one having ordinary skill in the art as meaning "instead of," so that the execution of the

second command is skipped in favor of the acquisition of the speculative data. See e.g., page 2, lines 6-10 and page 8, lines 18-22.

Olds '919 is silent with regard to these limitations, and instead merely discloses that, in the interval between execution of the first and second commands, speculative data can be advantageously obtained. See, for example, the following excerpt from Olds '919:

*By contrast, RLA involves receiving a command to move to a new target track, but because the target data block is a large angular distance away from the head, the drive delays seeking to the new track and instead maintains the head on the current track and reads additional data blocks on the current track [i.e., "speculative data"] before moving to the destination track and reading the target data block [i.e., executing the second command]. (Olds '919, para. 9, lines 5-11, emphasis added)*

Nothing from this excerpt could be reasonably construed as disclosing that the speculative data is obtained in lieu of the second (target) data, as proposed by the Examiner. Instead, the speculative data are merely obtained in the interval between execution of the first and second commands.

Stated another way, the second data from the second command are transferred at the same point in time regardless whether any speculative data are also obtained or not. See also Olds '919, para. 55, lines 1-4 ("the RLA are obtained...in relation to the available elapsed time (phase) between the end of the first command and the beginning of the second command") (emphasis added).

Accordingly, the Applicant respectfully submits that the rejections of the original language of previously presented independent claims 1, 19 and 20 were without merit.

Nevertheless, the Applicant has elected to amend claim 1 to now generally feature “executing a first data transfer command, and delaying execution of a second data transfer command to transfer speculative data in lieu thereof.” Olds ‘919 clearly fails to disclose delaying execution of the second data transfer command to transfer the speculative data in lieu thereof, as discussed above.

Accordingly, reconsideration and withdrawal of the rejection of claim 1, as well as for the claims depending therefrom, are respectfully requested.

#### **Allowable Subject Matter**

The Applicant gratefully acknowledges the indication of allowability of claims 3-13 and 15-16.

#### **Newly added Claims 21-28**

Pursuant to 37 CFR 1.111, newly added claims 21-28 also define subject matter that is patentable over the art of record including Olds ‘919.

More specifically, independent method claim 21 generally features a method comprising “transferring first data in response to an execution of a first pending command, and transferring speculative data instead of second data associated with a second pending command during a next available latency period for the second command when the speculative data are adjudged as having a utility greater than a utility of the second data.” (emphasis added). Support is found including in the language of original claims 1 and 19, as well as in the specification at page 8, lines 18-22, page 9, lines 9-11 and page 17, lines 5-7.

Olds '919, as well as the remaining art of record, are silent with regard to the subject matter of claim 21 as discussed above. Favorable action on claim 21 is therefore respectfully requested. Claims 22-24 depend from claim 21 and are believed to be patentable as depending from a patentable base claim.

New independent claim 25 generally features an apparatus comprising "a controller configured to execute a first data transfer command, and to delay execution of a second data transfer command to transfer speculative data in lieu thereof." Support is found including in the language of original claims 1 and 20, as well as in the specification at page 8, lines 18-22, page 9, lines 9-11 and page 17, lines 5-7.

As with claim 21, the Applicant respectfully submits that claim 25 defines subject matter that is patentable over Olds '919 and the other art of record for the reasons set forth above. Dependent claims 26-28 are believed to be patentable as depending from a patentable base claim.

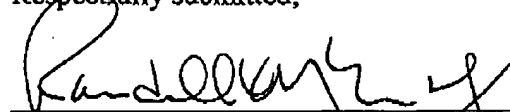
### **Conclusion**

This is intended to be a complete response to the first Office Action mailed July 26, 2005. The Applicant respectfully requests reconsideration and allowance of all of the claims pending in the application.

The Examiner is invited to contact the below signed Attorney should any questions arise concerning this response.

Respectfully submitted,

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